

Exhibit 33

GRAVES CIRCUIT COURT
DIVISION 1
COMMONWEALTH OF KENTUCKY
JUDGE TIMOTHY C. STARK

-----X
CAROLYN WARD WIMAN and LATTA W. WIMAN,

Plaintiffs,

vs.

DEPOSITION UNDER ORAL
EXAMINATION OF
JACQUELINE MOLINE, M.D.

TRIANGLE ENTERPRISES, et al.,

Defendants.

Case No: 18-CI-00181

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Transcript of the deposition of the witness,
called for Oral Examination in the above-captioned
matter, said deposition being taken pursuant to
Federal Rules of Civil Procedure by and before BRENDA
FITZGERALD, a Notary Public and Shorthand Reporter,
at the Northwell Health, 175 Community Drive, Great
Neck, New York on Monday, November 25, 2019,
commencing at 10:10 in the forenoon.

PRIORITY-ONE COURT REPORTING SERVICES, INC.
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Livingston, New Jersey 07039
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Job No. 3782925

<p style="text-align: right;">Page 2</p> <p style="text-align: center;">I N D E X</p> <p>1 WITNESS EXAMINATION BY PAGE</p> <p>2 Jacqueline Moline, M.D. Mr. Ewald 4</p> <p>3 Mr. Gault 117</p> <p>4</p> <p style="text-align: center;">E X H I B I T S</p> <p>5</p> <p>6 MOLINE DESCRIPTION FOR IDENT</p> <p>7 1 Deposition notice 20</p> <p>8 2 Dr. Moline's Reference & Reliance List 20</p> <p>9 3 Dr. Moline's Curriculum Vitae 22</p> <p>10 4 Dr. Moline's Deposition/Trial List 25</p> <p>11 5 Dr. Moline's handwritten notes 26</p> <p>12 6 Dr. Moline's Materials Reviewed/Relied 27</p> <p>13 7 Accepted copy of manuscript entitled</p> <p>14 Mesothelioma Associated with the Use of</p> <p>15 Cosmetic Talc 27</p> <p>16 8 AMA Analytical Services, Inc. Certificate</p> <p>17 of Analysis 94</p> <p>18 9 Johnson & Johnson press release 97</p> <p>19 10 Accepted copy of Exponent manuscript 101</p> <p>20 11 Copy of article entitled Health Effects</p> <p>21 of Censored Elongated Mineral Particles 107</p> <p>22 12 Copy of PowerPoint slide 110</p> <p>23 13 Copy of PowerPoint slide 111</p> <p>24 14 Copy of PowerPoint slide 113</p> <p>25 * 15 List of contents of documents in three</p> <p>binders 117</p> <p>* To be provided</p> <p style="text-align: center;">- oOo -</p>	<p style="text-align: right;">Page 4</p> <p>1 J A C Q U E L I N E M O L I N E, having been first</p> <p>2 duly sworn by a Notary Public of the State of New</p> <p>3 York, was examined and testified as follows:</p> <p>4 EXAMINATION BY</p> <p>5 MR. EWALD:</p> <p>6 Q. Good morning, Dr. Moline.</p> <p>7 A. Good morning.</p> <p>8 Q. How many hours have you spent preparing</p> <p>9 for your deposition today?</p> <p>10 A. Can you define what you mean by that?</p> <p>11 Q. Sure. Let's make it broader. How much</p> <p>12 time have you spent on your work in this case</p> <p>13 specifically?</p> <p>14 A. I would say approximately ten hours.</p> <p>15 Q. Can you please detail how you spent</p> <p>16 those ten hours.</p> <p>17 A. Reading through the medical records,</p> <p>18 going through taking notes on the medical records.</p> <p>19 Reading through the materials that were sent to me</p> <p>20 was the majority of the time, and then I had a brief</p> <p>21 meeting with Ms. Long on Friday.</p> <p>22 Q. How long was that meeting?</p> <p>23 A. Where we discussed the case, probably</p> <p>24 about 30 minutes, if that long.</p> <p>25 Q. Have you prepared an invoice for your</p>
<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S:</p> <p>2 LEVY KONIGSBERG, LLP</p> <p>Attorneys for Plaintiff</p> <p>3 800 Third Avenue</p> <p>New York, New York 10022</p> <p>4 BY: AMBER LONG, ESQ.</p> <p>5</p> <p>6 ORRICK, HERRINGTON & SUTCLIFFE, LLP</p> <p>Attorneys for the Defendant(s)</p> <p>7 Johnson & Johnson</p> <p>51 West 52nd Street</p> <p>8 New York, New York 10019-6142</p> <p>9 BY: JOHN L. EWALD, ESQ.</p> <p>10 ANNA E. STUART, ESQ.</p> <p>11 NAPIER, GAULT, SCHUPBACH & STEVENS, PLC</p> <p>Attorneys for the Defendant(s)</p> <p>12 Continental Tire</p> <p>730 West Main Street</p> <p>13 Louisville, Kentucky 40202</p> <p>14 BY: PATRICK W. GAULT, ESQ.</p> <p>(TELEPHONICALLY)</p> <p>15</p> <p>16 - oOo -</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 work in this case?</p> <p>2 A. No, not yet.</p> <p>3 Q. What are the case-specific opinions</p> <p>4 you're offering here?</p> <p>5 MS. LONG: Objection to form.</p> <p>6 A. That Carolyn Wiman is suffering from</p> <p>7 peritoneal mesothelioma as a result of her exposures</p> <p>8 to asbestos.</p> <p>9 Q. What asbestos exposures have you</p> <p>10 identified that Ms. Wiman encountered?</p> <p>11 A. She had exposure from her husband who</p> <p>12 worked at General Tire, her first husband. Her</p> <p>13 second husband also worked at General Tire, but he</p> <p>14 was retired by the time they married, and her</p> <p>15 exposures to Johnson & Johnson products.</p> <p>16 There is a question with no information</p> <p>17 whether her father might have had exposure when he</p> <p>18 worked as a carpenter helper at the gaseous diffusion</p> <p>19 plant in Kentucky, but there's no -- it's a possible</p> <p>20 exposure because there is no information related to</p> <p>21 what he actually did there, and also she assisted her</p> <p>22 mother with the laundry, but really helped hang it</p> <p>23 rather than shake it out and do the laundering, she</p> <p>24 did more of the hanging to dry, but that is a</p> <p>25 potential exposure, but the ones where -- the others</p>

<p style="text-align: right;">Page 46</p> <p>1 cosmetic talc, but also take-home exposure from her 2 husband. So that was the differentiation. This case 3 actually allows us to give you a stark example of 4 what I meant.</p> <p>5 Q. Can you describe what the parameters you 6 used in choosing the individual cases for this 7 series?</p> <p>8 MS. LONG: Objection to form.</p> <p>9 A. Only in a general sense in that I went 10 through various cases and looked to see if there was 11 alternate exposures or additional exposures in 12 addition. For example, a spouse or they were 13 involved in home renovations or something along the 14 like and excluded those cases from the 33 I wrote 15 about.</p> <p>16 Q. Were there any other general parameters 17 that you used in choosing the 33 that you write about 18 in the paper?</p> <p>19 A. It was the cases that I had to choose 20 from testimony that we were writing the paper. 21 Certainly there have been other cases since the paper 22 was started that I did not include, but it was just 23 going through them sequentially basically.</p> <p>24 Q. Is it your understanding, Dr. Moline, 25 that Dr. Gordon was compensated for the tissue</p>	<p style="text-align: right;">Page 48</p> <p>1 had a discussion with him if he had ever done tissue 2 digestion on the other 27. We decided to write up 3 six cases and then describe other cases.</p> <p>4 Q. How did you choose the six cases?</p> <p>5 A. Again, it was six cases that Dr. Gordon 6 had, that he had done, and I had also reviewed those 7 cases and we realized in looking at those cases that 8 there had been no additional or no other sources of 9 asbestos apart from the cosmetic talc, so it was 10 looking at a list of these six cases and reviewing to 11 ensure there was no additional exposure.</p> <p>12 Q. Who selected the six cases?</p> <p>13 A. Dr. Gordon. It was Dr. Gordon did the 14 tissue digestion was the starting point, so it was 15 these six cases that had no additional exposures.</p> <p>16 Q. So Dr. Gordon identified these six cases 17 as ones where he did tissue digestions and you said 18 basically yes, we'll focus on these six cases?</p> <p>19 MS. LONG: Objection to form.</p> <p>20 A. Yes, I believe he had given me a list of 21 eight or nine cases, but there were some that had 22 questionable additional exposures so we did not 23 include them. I don't remember the list.</p> <p>24 Q. The ones that were not included, are you 25 saying they weren't included amongst the six or they</p>
<p style="text-align: right;">Page 47</p> <p>1 digestion work that he did as an expert witness in 2 talc litigation for the six cases that are identified 3 here?</p> <p>4 MS. LONG: Objection to form.</p> <p>5 A. I have had no conversations with 6 Dr. Gordon regarding that.</p> <p>7 Q. But do you have an understanding that 8 the six tissue digestions of his that are discussed 9 in this paper were done in the context as an expert 10 witness in asbestos litigation?</p> <p>11 MS. LONG: Objection to form.</p> <p>12 A. Yes, that was the initial manner by 13 which he was asked to do the tissue digestion. I 14 think we were pretty explicit in the article about 15 the providence of these cases.</p> <p>16 Q. So there was six tissue digestions by 17 Dr. Gordon that are discussed in the paper, correct?</p> <p>18 A. Correct.</p> <p>19 Q. Did Dr. Gordon conduct any tissue 20 analysis of which you are aware in connection with 21 the other 27 cases discussed?</p> <p>22 A. I have not discussed that with him. We 23 decided to limit the number of cases to six. It 24 becomes overwhelming for a reader to read multiple 25 cases that are all very similar. I actually never</p>	<p style="text-align: right;">Page 49</p> <p>1 weren't included amongst the 33 overall?</p> <p>2 A. They weren't included in either.</p> <p>3 Q. But you did not tell Dr. Gordon that you 4 wanted to focus on one of the other 33 cases that are 5 listed in the article?</p> <p>6 MS. LONG: Objection to form.</p> <p>7 A. Do you mean one of the other 27?</p> <p>8 Q. Yes.</p> <p>9 A. I did not. It was the cases he had 10 done, the cases I also reviewed. I did not discuss 11 the others.</p> <p>12 Q. Was it Dr. Gordon that thought that six 13 was the right number to focus on?</p> <p>14 A. No, it was my choice to limit it to six.</p> <p>15 Q. You testified that there were a couple 16 cases that you excluded because of potential 17 alternative exposures, right?</p> <p>18 A. Yes, at least one. There was one. I 19 don't know if there were additional.</p> <p>20 Q. Of the 33 that ended up being discussed 21 in your article, are there any that Dr. Gordon 22 presented to you as being one of the six that you 23 said no, we should not use that as one of the six?</p> <p>24 MS. LONG: Objection to form.</p> <p>25 A. No, the only cases that I'm aware of</p>

<p style="text-align: right;">Page 50</p> <p>1 that Dr. Gordon had any involvement with is the six. 2 It is possible that he did a tissue digestion on the 3 others, but if he did, I did not focus on that 4 because I decided that we were going to stop at six. 5 Q. Do you have let's call it a key that 6 matches up with each of the 33 case studies with the 7 litigation plaintiff's name? 8 MS. LONG: Objection to form. 9 A. Are you asking if I identified the 10 listing of the cases? 11 Q. Yes. 12 A. There is an identified case listing. 13 You will not get it. 14 Q. Why is that? 15 A. Because it's protected under IRB and 16 HIPAA and it's protected health information. 17 Q. What is the basis of your understanding 18 for that? 19 A. That this is a research endeavor and we 20 did not solicit consent with the understanding that 21 they would be anonymous and not identified by name in 22 the article or other identifying features apart from 23 age of diagnosis and occupation or other things along 24 those lines. 25 Q. Why did you choose 33 as a number?</p>	<p style="text-align: right;">Page 52</p> <p>1 from the talc usage? 2 A. I don't recall the exact number. It was 3 something initially going through the various cases 4 that I reviewed, which is many more than 33 over the 5 past years. Honestly, I can't give you an exact 6 number. I can't say it was 50 percent. I can't say 7 25 percent. I don't know because I wasn't cataloging 8 my exclusions. 9 Q. For those cases where you did not 10 identify a potential other source of asbestos from 11 the cosmetic talc, what criteria did you use to 12 choose your 33? 13 A. I'm sorry. I lost you. 14 Q. You talked about excluding some from the 15 case series where you identified a potential asbestos 16 exposure. 17 A. Ms. Wiman, for example. 18 Q. Without would not have been available to 19 you I don't think at the time you were drafting the 20 article, fair? 21 MS. LONG: Right. It should be clear 22 that you're using Wiman as an example of the type. 23 A. She was not considered, nor excluded, 24 but because we're here, hopefully going to get back 25 to the case at some point in my life, she's a prime</p>
<p style="text-align: right;">Page 51</p> <p>1 A. Because I'm a history of science major. 2 Q. You reference the Wagner paper; is that 3 the reason you chose 33? 4 A. I thought it was a beautifully 5 symmetrical way to describe a -- since Dr. Wagner in 6 1960 made the connection or the widely accepted 7 connection between mesothelioma and asbestos based on 8 a case series of 33 individuals that has been widely 9 accepted in the medical literature, I thought it was 10 only fitting to use that same number in an article 11 almost 60 years later that's describing an exposure 12 that heretofore had not been comprehensively 13 described in the medical literature. It's of a 14 historical reference. I could have picked another 15 number, but I like the historical implications. 16 Q. At the time that you were selecting 17 which cases to use in your case series, how many 18 cases did you have available to select from? 19 A. More than 33. I don't remember the 20 exact number. I have not counted the exact number of 21 cases I've reviewed, so I can't give you an actual 22 number. 23 Q. Do you have a sense of how many cases 24 you excluded from the series on the basis that they 25 were essential asbestos exposures separate and apart</p>	<p style="text-align: right;">Page 53</p> <p>1 example of someone who would not have been included 2 because she had a second exposure or potentially 3 others. So that was the same type of analysis that I 4 went through; if in the course of either my interview 5 or the deposition transcripts or other information 6 available there was identification of an alternate 7 exposure, then they would have been excluded. 8 Q. So my poorly worded question earlier, 9 this isn't much better, my question then is, of the 10 cases available to you at the time you were selecting 11 your 33 that did not in your estimation have a other 12 potential source of asbestos exposure, what criteria 13 did you use to use amongst those for your 33? 14 A. It was basically sequential. I went 15 through the various reports that I've written or 16 cases that I've reviewed and began compiling those 17 that are cosmetic talc. It wasn't like I said 18 73 percent women and 27 percent men. I didn't have 19 exclusion criteria along those lines apart from 20 having an additional exposure to asbestos or 21 potential asbestos exposure. 22 Q. If I'm hearing you correctly, once you 23 got to 33 as you're going down the list where there 24 wasn't, in your estimation, other potential source of 25 asbestos exposure you stopped?</p>

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1 CERTIFICATE

2

3 STATE OF NEW YORK)

) ss:

4 COUNTY OF NEW YORK)

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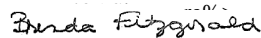
6 I, BRENDA FITZGERALD, a Shorthand
7 Reporter and Notary Public within and for the State
8 of New York, do hereby certify:

9 That, Jacqueline Moline, M.D., an expert
10 witness whose DEPOSITION was held on November 25,
11 2019, as hereinbefore set forth, was duly sworn by
12 me, and that this transcript of such Examination is a
13 true and accurate record of the testimony given by
14 such witness.

15 I further certify that I am not related
16 to any of the parties to this action by blood or by
17 marriage, and that I am in no way interested in the
18 outcome of this matter.

19 IN WITNESS WHEREOF, I have hereunto set
20 my hand this 2nd day of December 2019.

21



22

23

BRENDA FITZGERALD

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25

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1 ERRATA SHEET

Priority-One Court Reporting/Veritext

2 718-983-1234

3 ASSIGNMENT NO. P1-3782925

4 CASE NAME: Wiman, Carolyn v. Asbestos

DATE OF DEPOSITION: 11/25/2019

5 WITNESS' NAME: Dr Jacqueline Moline

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Dr Jacqueline Moline

21 (Notary not required in California)

SUBSCRIBED AND SWORN TO

22 BEFORE ME THIS ____ DAY

OF ____, 2019.

23

24 NOTARY PUBLIC

25 MY COMMISSION EXPIRES ____

39 (Pages 150 - 151)